

REGULAR MEETING

Monday, January 16, 1928, 7:30 P. M.

The Common Council of the City of Indianapolis met in the Council Chamber, Monday, January 16, 1928, at 7:30 p. m., in regular session, President Otis E. Bartholomew in the chair.

The clerk called the roll.

Present: Hon. Otis E. Bartholomew, President, and five members, viz: Walter R. Dorsett, Boynton J. Moore, Robert E. Springsteen, Austin H. Todd, Claude E. Negley.

Absent: O. Ray Albertson, Millard W. Ferguson, Edward B. Raub.

On motion of Mr. Dorsett, seconded by Mr. Negley, the reading of the minutes of the previous meeting was dispensed with.

COMMUNICATIONS FROM THE MAYOR

January 5, 1928.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—I herewith return General Ordinance No. 119, 1927, entitled

“AN ORDINANCE, Concerning the time of the delivery of milk, cream or other dairy products wherein the same is left out of doors where the weather elements may come in contact therewith. Providing for a penalty and declaring a time when the same shall take effect,” without my approval.

This proposed ordinance makes it a criminal offense for any person, firm, corporation or association to deliver any quantity of milk, cream or dairy product, where the same is left out of doors, before 5 o'clock a. m., of the day of delivery during the time from November 1 of one year to and including April 1 of the following year. Three punishments are defined involving grades from \$10 to ninety days in jail for a violation of the proposed ordinance. The milk consumers of Indianapolis have not been heard, but on last Saturday morning, December 31, 1927, I heard the arguments in favor of this ordinance from the milk companies and representatives of the Humane Society. No other organization has presented any arguments in favor of this ordinance.

At the conference I then stated my fundamental objection to this kind of legislation is that we are trying to regulate the conduct of private enterprise and personal occupations by criminal statutes to an extent that has become the subject of proper and just criticism in this country. Notwithstanding that milk companies and distributors would agree on this ordinance—which they do not—I object to it for the reason that we can not properly govern this country by making criminal, acts which in themselves are not objectionable, merely because government desires to regulate private and personal industry and conduct. The only argument in favor of this ordinance that appeals to me to any extent is the argument of using animals in the delivery at night when they should have their rest and sleep and the working of individuals delivering the milk at night when they should have their rest and sleep. As to the animals, they have no way of protecting themselves, and from a humane point of view, I am convinced that these dumb brutes are entitled to their rest and sleep at night, and if it were possible for me or the City of Indianapolis to make such provision for their humane treatment, I should welcome some solution of that matter. However, I do not think that individuals can regulate this subject by making a crime out of the use of an animal during the night. We have humane statutes on the books already which will govern substantially any in-humane treatment of a dumb animal, and I am thoroughly in sympathy with these statutes and want a strict enforcement of them.

As to the work of individuals, I fail to see why the government of the City of Indianapolis should make it unlawful for a man engaged in delivering milk for his employer, to perform that service before 5 o'clock in the morning. Notwithstanding we all know that the night time is the time for individuals to sleep and rest, we are not yet prepared to approve the doctrine that makes

it unlawful for people to work at night in any kind of industry unless and except it would be clearly established that it was in the protection of helpless individuals on account of age or other conditions where they had to look to the government for protection. We are not yet prepared to pass a law making it unlawful for a person to fail to refuse to go to bed and sleep during the night time. Some discretion in regard to a matter of that sort should be left in the power of the individual to do as he pleased.

I have no doubt that the customers of milk companies and the users of milk in Indianapolis could, if they cared to, organize and exert influence upon this subject and bring about the delivery of milk and dairy products at a time to suit their own convenience and that the milk companies and distributors would have to follow the desire and demands of the milk users as to when delivery should be made. No doubt the question of having to keep dairy products a period of substantially twenty to twenty-four hours, and having to provide the necessary facilities for keeping cool such products during that time, and the question of just when families desire to use milk—whether they have it soon after it is brought from the dairy or allowing it to stand for several hours and then using it—and other considerations which the users and customers are entitled to have considered, are also questions that arise in respect to an ordinance of this kind, and in the absence of some demand from the customers and users of milk products, I can not see my way clear to approve legislation of this character.

I am not opposed generally to the creation of criminal statutes, but I am very much disposed to thoroughly consider every criminal statute brought to my attention for approval before adopting it, and generally speaking, our trend toward creation of a criminal statute to penalize every kind of an act is objectionable because it deprives people of their rights as free American citizens and such statutes must come from the people who are to be thus restricted rather than to be forced upon them by special conditions or special circumstances.

Respectfully,

L. ERT. SLACK,

Mayor.

January 6, 1928.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—I have this day approved with my signature and

delivered to William A. Boyce, Jr., City Clerk, Special Ordinance No. 13, 1927, entitled:

“AN ORDINANCE TO ANNEX TO THE CITY OF INDIANAPOLIS IN THE STATE OF INDIANA, CERTAIN TERRITORY CONTIGUOUS THERETO, AND FIXING A TIME WHEN THE SAME SHALL TAKE EFFECT.”

Very truly yours,

L. ERT. SLACK,
Mayor.

January 6, 1928.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—I have this day approved with my signature and delivered to William A. Boyce, Jr., City Clerk, General Ordinance No. 125, entitled:

“AN ORDINANCE, requiring the Pennsylvania Railroad Company to install flash light signals at certain street crossings, repealing all ordinance in conflict therewith and declaring a time when the same shall take effect.”

Very truly yours,

L. ERT. SLACK,
Mayor.

January 6, 1928.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—I have this day approved with my signature and delivered to William A. Boyce, Jr., City Clerk, General Ordinance No. 120 and General Ordinance No. 123, 1927, entitled, respectively:

AN ORDINANCE regulating vehicle traffic and declaring Harding Street, where it extends and intersects with Eighteenth (18th) Street, and extending northward to the South side of Twenty-ninth Street in the City of Indianapolis, a preferential street, providing a penalty for the violation thereof and declaring a time when the same shall take effect.

AN ORDINANCE to amend General Ordinance No. 9, 1925,

known as the Official Thoroughfare Plan of the City of Indianapolis.

Very truly yours,

L. ERT. SLACK,

Mayor.

January 10, 1928.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—I have this day approved with my signature and delivered to William A. Boyce, Jr., City Clerk, General Ordinance No. 1, 1928, entitled:

“AN ORDINANCE, authorizing the City Controller of the City of Indianapolis to make a temporary loan or loans in the sum of Six Hundred Thousand (\$600,000.00) Dollars in anticipation of current revenues of such city actually levied and in course of collection for the fiscal year in which such loan or loans are made, and payable out of the current revenues of said city for the year of 1928, authorizing the rate of interest to be charged therefor, providing for legal notice, appropriating the sum of Six Hundred Ten Thousand (\$610,000.00) Dollars for the payment of the bonds, and interest thereon and fixing a time when the same shall take effect.”

Very truly yours,

L. ERT. SLACK,

Mayor.

COMMUNICATIONS FROM CITY OFFICIALS

January 14, 1928.

Mr. Wm. A. Boyce, Jr.,
City Clerk,
Indianapolis, Ind.

Dear Sir—Attached hereto find eleven (11) copies of a switch contract for A. Otto Abel and Frank W. Abel, from the Illinois Central Railroad across South Senate Avenue, at Palmer Street, for the purpose of servicing Lots No. 17 and No. 18 in the Peru and Indianapolis Railroad Company's Addition, approved by the Board of Public Works January 13, 1928.

The Board of Public Works desires that you present this switch contract to the Common Council for their consideration and action.

Very truly yours,

ERNEST F. FRICK,

Secretary, Board of Public Works.

January 13, 1928.

To the Board of Public Works:

Gentlemen—With return of attached petition of A. Otto Abel and Frank W. Abel, for permission to lay and maintain a sidetrack or switch from the Illinois Central Railroad across S. Senate Avenue, at Palmer Street, for the purpose of servicing Lots No. 17 and No. 18 in the Peru and Indianapolis Railroad Company's Addition, as shown on blue print, would recommend that said petition be granted, approved and sent to Council for ratification.

Very truly yours,

A. H. MOORE,

City Civil Engineer.

January 13, 1928.

Approved:

O. HACK.

JOHN McCLOSKEY.

CHARLES RIDDLE.

Board of Public Works.

To the Honorable President and Members of the Common Council, of the City of Indianapolis, Indiana:

Gentlemen—Attached please find copies of a General Ordinance authorizing the City of Indianapolis to make a temporary loan or loans in the amount of One Hundred Twenty-five Thousand (\$125,000.00) Dollars for the use of the Board of Health of the City of Indianapolis.

I respectfully recommend the passage of this ordinance.

Very truly yours,

STERLING R. HOLT,

City Controller.

January 13, 1928.

Mr. Sterling R. Holt,
City Controller,
Indianapolis, Ind.

Dear Sir—Attached please find fourteen (14) copies of General Ordinance No. —, 1928 for transmission to the Common Council, authorizing the City of Indianapolis to make a temporary loan or loans for the use of the Board of Health of the City of Indianapolis, payable out of the current revenues of said Board of Health for the year 1928, for the sum of One Hundred and Twenty-Five Thousand (\$125,000.00) Dollars.

Yours truly,

CHAS. MENDENHALL,
Attorney for the Board of Health.

January 16, 1928.

*To the Honorable President and Members of the Common Council, of the
City of Indianapolis, Indiana:*

Gentlemen—Attached please find copies of a General Ordinance transferring the sum of Fifty (\$50.00) Dollars from Fund No. 72 "Equipment" Board of Safety Department to Fund No. 21 "Communication and Transportation," Board of Safety Department.

I respectfully recommend the passage of this ordinance.

Very truly yours,

STERLING R. HOLT,
City Controller.

January 16, 1928.

S. R. Holt,
City Controller,
City of Indianapolis.

Dear Sir—The Board of Safety respectfully requests you to transmit to the Common Council and recommend the passage of the attached ordinance transferring Fifty (\$50.00) Dollars from Fund No. 72, Equipment, Board of Safety Department, to Fund No. 21, Communication and Transportation, Board of Public Safety Department.

Due to an error in passing the Budget for 1928, Fund No. 21, Communication and Transportation, was omitted from the Board of Safety Budget, therefore, this action.

Yours very truly,

FRED W. CONNELL,

President, Board of Public Safety.

January 16, 1928.

To the Honorable President and Members of the Common Council, of the City of Indianapolis, Indiana:

Gentlemen—I beg leave to report the activities of the City Clerk's office for the year 1927, which report is attached hereto. You will note that the traffic fees collected in 1927 amount to \$20,746, as compared with \$22,253 in 1926, and \$4,630 in 1925.

My budget request for the Clerk's office for 1928 was \$975 below the expenditures for 1927, but due to the fact that the Finance Committee of the Council added \$2,000 to my account No. 24 it appears larger. It is my intention during the next year to save at least \$1,500 of this \$2,000 increase, in order to keep the expenditures of this office down to the lowest possible level.

Respectfully submitted,

WILLIAM A. BOYCE, JR.,

City Clerk.

TRAFFIC FEES COLLECTED DURING 1927 .

Month	1st Off.	Amt.	2nd Off.	Amt.	3rd Off.	Amt.	Total	Amt.
January	528	\$1,056	1	\$3	2	\$10	531	\$1,069
February	841	1,682	18	54	2	10	861	1,746
March	1,368	2,736	55	165	4	20	1,437	2,921
April	1,203	2,406	63	189	7	35	1,273	2,630
May	1,052	2,104	72	216	7	35	1,131	2,355
June	836	1,672	64	192	18	90	918	1,954
July	686	1,372	53	159	12	60	751	1,591
August	981	1,962	79	237	20	100	1,080	2,299
September	488	976	19	57	4	20	511	1,053
October	673	1,346	35	105	3	15	711	1,466
November	442	884	29	87	5	25	476	996
December	283	566	15	45	1	5	299	666
	9,381	\$18,762	503	\$1,509	85	\$425	9,969	\$20,746

TRAFFIC FEES COLLECTED FOR THE YEAR 1927
AS COMPARED WITH 1926

January	\$ 38.00	\$ 1,069.00
February	318.00	1,746.00
March	640.00	2,921.00
April	1,507.00	2,630.00
May	3,100.00	2,355.00
June	3,070.00	1,954.00
July	2,962.00	1,591.00
August	2,835.00	2,299.00
September	3,302.00	1,053.00
October	1,580.00	1,466.00
November	1,915.00	996.00
December	986.00	666.00
	\$22,253.00	\$20,746.00

On motion of Mr. Dorsett, seconded by Dr. Todd, the Common Council recessed for fifteen minutes or more at 7:50 p. m.

The Common Council reconvened at 8:20 p. m., with seven members present, Mr. Albertson having entered during the recess.

REPORTS OF STANDING COMMITTEES

Indianapolis, Ind., January 16, 1928.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—We, your Committee on Finances, to whom was referred General Ordinance No. 2, 1928, entitled Tax Fund, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

BOYNTON J. MOORE, Chairman.

CLAUDE E. NEGLEY.

WALTER R. DORSETT.

A. H. TODD.

INTRODUCTION OF GENERAL ORDINANCES

By Board of Works:

GENERAL ORDINANCE No. 5, 1928
SWITCH CONTRACT

AN ORDINANCE approving a certain contract granting A. Otto Abel and Frank W. Abel the right to lay and maintain a sidetrack or switch from the Illinois Central Railroad across South Senate avenue, according to blue print attached, in the City of Indianapolis, Indiana.

WHEREAS, heretofore, to-wit: on the 13th day of January, 1928, A. Otto Abel and Frank W. Abel filed his petition before the Board of Public Works of the City of Indianapolis, as follows:

PETITION

To Board of Public Works,
City of Indianapolis.
Gentlemen:

We, your petitioners, respectfully request permission to construct a single track switch from a present spur of the Illinois Central Railroad across Senate Avenue, for the purpose of servicing Lots No. 17 and No. 18 in the Peru and Indianapolis Railroad Company's Addition.

NOW THEREFORE, This agreement made and entered into this _____ day of January, 1928, by and between A. Otto Abel and Frank W. Abel, of the City of Indianapolis, County of Marion, State of Indiana, party of the first part, and the City of Indianapolis, by and through its Board of Public Works, party of the second part.

WITNESSETH: That the party of the first part, being desirous of securing a right of way for a sidetrack or switch from the Illinois Central Railroad across Senate Avenue in the City of Indianapolis, which is more specifically described as follows:

Beginning at the intersection of the North Property Line of Palmer Street with the West Line of Senate Avenue, thence bearing right along and across Senate Avenue with a single track a distance of 224 feet intersecting the East Property Line of Senate Avenue

twenty (20) feet North of the North Property Line of Lot No. 19, in the Peru and Indianapolis Railroad Company's Addition, hereby covenants and fully binds himself, his successors, legal representatives and assigns, that, in consideration of the grant of the privileges and authority herein given, he will lay, construct and maintain said track upon the terms and conditions hereinafter set forth, to-wit:

(1) They shall be so laid, improved and kept in repair as to be safe for persons on foot, in vehicles or otherwise, and shall, at all times, be subject to the orders of the Board of Public Works of the City of Indianapolis.

(2) Said track and switch shall be laid upon such grade as shall be established by said Board, and shall be put down under its supervision and to its satisfaction and approval. Said track shall be raised or lowered to conform to any grade which may, from time to time, be hereafter established, whenever so ordered, in writing, by said Board, and shall be made to conform in all respects with any ordinance passed by the Common Council or with any resolution or resolutions made by said Board, for the elevation or depression of said tracks.

(3) The crossing where said track intersects Senate Avenue shall, at all times, be kept improved and in repair and free from obstructions or defects of any kind. No car or cars shall be permitted to obstruct such crossing or to be thereon except for such time as may be absolutely necessary in moving them back and forth, and they shall be at no time stopped or detained thereon in such manner as to obstruct public travel.

(4) Said party of the first part agrees, upon the written order of said Board, made for any good cause affecting the interest of the City or the public welfare, to take up and remove said track, and upon said party's failure so to do, upon such notification in writing, of ten (10) days, to promptly pay the cost of having the same done, and the party of the first part hereby releases all claims for damages whatsoever that may arise by reason of such removal; and in removing said track or causing the same to be done, said Board shall in no wise become a trespasser.

(5) The party of the first part agrees to pave between said track to the entire satisfaction of the second party, and in case said tracks shall be or become out of repair or in need of being reconstructed, or become in any way defective (of which fact the said Board shall be the exclusive judge), it shall be the duty of the said party of the first part to promptly repair or remove same, failing in

which, after notification in writing of ten (10) days, said Board shall do or cause the same to be done at the expense of the said party of the first part and for which expense and cost the said party of the first part shall be liable.

(6) The said party of the first part herein binds himself to hold said party of the second part and said city harmless from any and all claims for damages growing out of the existence, maintenance or use of said tracks, and to pay any judgment, with costs, that may on that account be rendered against the said party or said city, and also to pay all necessary expenses that may be incurred by said city in defending against any such claims.

(7) Any violation of any of the provisions of this instrument by said party of the first part, or by any one for it or at its instance or with its permission, shall operate as an immediate and absolute forfeiture of the privileges and authority given or granted by this contract, provided, however, that the same may be terminated by said Board as hereinbefore set forth.

Said party of the second part by virtue of the provisions of an act of the General Assembly of the State of Indiana entitled "An act concerning municipal corporations," approved March 6, 1905, and in consideration of the things hereinbefore set forth and upon the terms and provisions stipulated, hereby gives, grants and duly vests said party of the first part the right, privilege and authority to lay and maintain an additional sidetrack or switch across Senate Avenue between the points named in the City of Indianapolis, all as shown by the drawing attached hereto, filed herewith and for greater certainty marked "Exhibit A."

IN WITNESS WHEREOF, We have hereunto set our hands this _____ day of January, 1928.

A. OTTO ABEL

FRANK W. ABEL

Party of the First Part.

Witness: W. J. Condrey.

CITY OF INDIANAPOLIS,

By O. HACK, President.

CHAS. L. RIDDLE.

BOARD OF PUBLIC WORKS,

Party of the Second Part.

AND WHEREAS, Said contract has been submitted by the Board of Public Works to the Common Council of the City of Indianapolis, for its consideration and action, now, therefore.

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, that such contract above set forth be, and the same is hereby in all things confirmed and approved.

Section 2. This ordinance shall be in full force and effect from and after its passage.

Which was read for a first time and referred to the Committee on Public Works.

By Mr. Moore:

GENERAL ORDINANCE No. 6, 1928

AN ORDINANCE, Amending clause "D" of Subsection 2, of Section A-503 of the Building Code, Being Section 865 of General Ordinance No. 121, 1925, and declaring a time when the same shall take effect.

Be It Ordained by the Common Council of the City of Indianapolis, Indiana:

Section 1. That Clause "D" of Subsection 2 of Section A-503 of the Building Code, being Section 265 of General Ordinance No. 121, 1925, be and the same hereby is amended to read as follows:

(D) Outside of the fire zones no public garage shall be located or maintained within one hundred fifty (150) feet of any lot whereon there is situated a structure used and maintained as a church, hospital, or public school building, unless such garage was established prior to the establishment of said church, hospital or school building, or unless said garage is of first class construction and separated from any such structure by an unpierced solid fire-wall of brick or concrete, except that when the said buildings are separated by a distance of four feet, openings approved by the Commissioner of Buildings, may be permitted. Such four foot space must be open from the ground to the sky.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

BOYNTON J. MOORE.

Which was read a first time and referred to the Committee on Public Works.

By City Comptroller:

GENERAL ORDINANCE NO. 7, 1928

AN ORDINANCE, authorizing the City of Indianapolis, to make a temporary loan or loans for the use of the Board of Health of the City of Indianapolis, Indiana, in anticipation of its current revenues and payable out of the current revenues of said Board of Health for the year 1928, authorizing the rate of interest to be charged therefor, providing for legal notice and fixing a time when the same shall take effect.

WHEREAS, the Board of Health of the City of Indianapolis, Indiana, on the 15th day of February, 1928, will be and continue to be until the 15th day of June, 1928, without sufficient funds to pay its salary pay-roll and other current expenses for Board of Health purposes, and

WHEREAS, the said current expenses and said pay-roll for said period will amount to approximately One Hundred and Twenty-five Thousand (\$125,000.00) Dollars, and

WHEREAS, the first semi-annual installment of taxes levied by the City of Indianapolis, for general Board of Health purposes for the year 1927 and collectible on or before the 7th day of May, 1928, will amount to approximately One Hundred and Fifty Thousand (\$150,000.00) Dollars,

NOW THEREFORE, be it resolved by the Board of Health of the City of Indianapolis, Indiana, that an ordinance be prepared and presented to the Common Council of the City of Indianapolis, Indiana, for passage for the making of a temporary loan or loans by the City of Indianapolis, for the total sum of One Hundred and Twenty-Five Thousand (\$125,000.00) Dollars for the use of said Board of Health, for said purpose, at a rate of interest not to exceed six (6%) per cent per annum for a period not exceeding four months, from the date of such temporary loan or loans to be made in anticipation of the current revenues of the said Board of Health

and collectible in the year 1928; Said loan or loans to bear interest at said rate, as herein stated from the time each parcel of said loan or loans are checked out for the use of the Board of Health, and

BE IT FURTHER RESOLVED, by said Board of Health, that there be and hereby is appropriated out of the current revenues of said Board of Health for the year 1928, for the purpose of paying said loan or loans and interest thereon as the same become due the sum of One Hundred and Twenty Seven Thousand, Five Hundred (\$127,500.00) Dollars.

Be It Ordained by the Common Council of the City of Indianapolis, Indiana:

Section 1. That the City Controller be and is hereby authorized and empowered to negotiate a temporary loan or loans for the use of the Board of Health of the City of Indianapolis, Indiana, in anticipation of current revenues of said Board of Health for the year 1928; Said loan or loans to be made for the total sum of not to exceed One Hundred and Twenty Five Thousand (\$125,000.00) Dollars and payable out of the current revenues of said Board at a rate of interest not to exceed six (6%) per cent per annum and for and during a period not exceeding four (4) months from the date thereof; Said loan or loans to be available and subject to check by said City for the use of said Board of Health as follows:

Seventy-five Thousand (\$75,000.00) Dollars at the time said loan or loans is or are awarded and Fifty Thousand (\$50,000.00) Dollars thirty days thereafter. Said loan or loans bearing interest not exceeding the rate as herein provided from the dates said money is subject to check. After the publication of the herein determination to issue such temporary loan or loans, and as provided in Section 2, of this ordinance, said loan or loans shall be let to the lowest bidder at competitive bidding on the annual rate of interest under conditions prescribed in notice of the same, which shall be published for at least one day in at least one daily newspaper of general circulation of said City; The Mayor and City Controller are hereby authorized and directed to execute the proper obligations of said City for the amount or amounts so borrowed, which shall also be countersigned by the president of the Board of Health, and to the payment of said obligation the faith of the City of Indianapolis, is hereby irrevocably pledged.

Section 2. The Mayor, City Controller and Corporation Counsel are hereby authorized and directed to publish notice of the

determination herein made, to issue the bonds or other evidence of indebtedness for such temporary loan or loans as required by law.

Section 3. This ordinance shall be in full force and effect from and after its passage.

Which was read a first time and referred to the Committee on Finance.

GENERAL ORDINANCE 8, 1928

AN ORDINANCE, transferring and reappropriating certain funds in the Department of Public Safety and declaring a time when same shall take effect:

Be It Ordained by the Common Council of the City of Indianapolis, Indiana:

Section 1. That there be and is hereby transferred from the Board of Public Safety Fund No. 72, Equipment, the sum of Fifty (\$50.00) Dollars, and that the same is hereby reappropriated to the Board of Public Safety Fund No. 21, Communication and Transportation.

Section 2. This ordinance shall be in full force and effect from and after its passage.

Which was read a first time and referred to the Committee on Finance.

INTRODUCTION OF RESOLUTIONS

By Mr. Dorsett:

RESOLUTION 1, 1928

WHEREAS, on the twenty-seventh day of October, 1927, Resolution No. 27, 1927, was presented to and acted upon by the Common Council of the City of Indianapolis, and,

WHEREAS, John L. Duvall, the duly elected, qualified and acting Mayor of the City of Indianapolis, resigned his said office on said same date, and,

WHEREAS, Maude E. Duvall, the then City Controller of the City of Indianapolis, qualified herself as Mayor of the City of Indianapolis on said same date, and,

WHEREAS, said Maude E. Duvall, after so qualifying as Mayor, appointed Ira M. Holmes, a citizen, a large tax payer and a suitable person of the City of Indianapolis, as Controller of the City of Indianapolis, and,

WHEREAS, on said October 27, 1927, said Ira M. Holmes qualified as said City Controller, and,

WHEREAS, thereafter on said twenty-seventh day of October, 1927, said Maude E. Duvall resigned her office of Mayor of the City of Indianapolis, and,

WHEREAS, said Ira M. Holmes on said day qualified as Mayor of said City of Indianapolis and assumed the duties of said Mayor's office, and,

WHEREAS, all of said facts were unknown to the members of the Common Council at the time of the adoption of said Resolution No. 27, 1927, and,

WHEREAS, said Resolution was adopted because of the belief that the conviction of John L. Duvall had vacated his office of Mayor, and,

WHEREAS, said Council is now advised that said John L. Duvall had appealed said conviction to the Supreme Court, and,

WHEREAS, said Council is now advised that at the time of said conviction of John L. Duvall there was in full force and effect the following statutes in the State of Indiana:

Section 2390 Burns' Rev. Statutes, 1926, Acts 1911, Page 410, Section 5.

"Whenever any defendant is admitted to bail under the provision of this act, the judgment of conviction shall be stayed from the time of the approval of the bond provided for herein until such appeal is dismissed or judgment affirmed, then the term of imprisonment prescribed in such judgment shall commence to run from the time such defendant surrenders himself, according to the terms of his said bond. In the event that said defendant is surrendered by his sureties, as provided for by Section 4 of this act,

then such judgment shall commence to run from the time of such surrender, and such defendant shall be immediately confined in the institution to which he was committed by such original sentence. If a defendant is admitted to bail under the provisions of this act after he has commenced to serve his sentence, and his appeal shall be dismissed or the judgment from which such appeal was taken is affirmed, then said defendant, upon surrendering himself, according to the terms of his bond, shall have credit on his term of sentence for the period he served thereon before being so admitted to bail. During the time any defendant is released from custody under the provisions of this act, the judgment of conviction shall be stayed."

Section 7673 Burns' Revised Statutes, 1926, in part as follows:

"An appeal to the Supreme Court of the State of Indiana may be taken on questions of law from any decision relative to ineligibility to public office or employment of any such candidate." And,

WHEREAS, said Council was advised that ineligibility to hold office attached immediately and that there was no appeal therefrom to the Supreme Court of the State of Indiana, And,

WHEREAS, said Council, acting upon said advice, committed a grave wrong to the rights of said John L. Duvall, Maude E. Duvall and Ira M. Holmes,

NOW THEREFORE, BE IT RESOLVED, that Resolution No. 27, 1927, and all action taken thereunder be rescinded and all things done thereunder be declared null and void and held for naught, and it is hereby

RESOLVED, by the Common Council of said City of Indianapolis that Resolution No. 27, 1927, and all action taken thereunder, be rescinded, and all things done thereunder be declared null and void and held for naught.

WALTER R. DORSETT,
Councilman.

Which was read a first time and referred to the Committee on Law and Judiciary.

On motion of Mr. Dorsett, seconded by Mr. Negley, the Common Council recessed at 8:35 in order to give the Law and Judiciary Committee opportunity to prepare their report.

The Common Council reconvened from its recess at 8:42 p. m., with the same members present as before.

ORDINANCES ON SECOND READING

Mr. Dorsett called for General Ordinance 2, 1928, for second reading. It was read a second time.

Mr. Negley presented the following motion to amend General Ordinance 2, 1928.

Indianapolis, Ind.

January 16, 1928.

Mr. President:

I move that General Ordinance No. 2, 1928, be amended by striking out Section 1 and inserting in lieu thereof the following:

“Section 1. That the sum of Twenty-five Thousand Seven Hundred Thirty-four Dollars and Seventy-two (\$25,734.22) Cents of the Gasoline Tax Fund, which sum is now unappropriated, be and the same is hereby appropriated and transferred to the City Civil Engineer Gasoline Fund Special, for the purchase of materials only for the purpose of repair and maintenance of the city streets and thoroughfares.

CLAUDE E. NEGLEY,
Councilman.

The motion was seconded by Mr. Dorsett, and passed by the following roll-call vote:

Ayes, 5, viz: Messrs. Dorsett, Moore, Negley, Todd, President Bartholomew.

Noes, 2, viz: Messrs. Albertson, Springsteen.

On motion of Mr. Negley, seconded by Mr. Moore, General Ordinance 2, 1928 (as amended), was ordered engrossed, read a third time, and placed upon its passage.

General Ordinance 2, 1928, was read a third time by the clerk (as amended), and passed by the following roll-call vote:

Ayes, 6, viz: Messrs. Dorsett, Moore, Negley, Springsteen, Todd and President Bartholomew.

Noes, 1, viz: Mr. Albertson.

COMMITTEE REPORTS

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

January 16, 1928.

Gentlemen—

We, your Committee on Law and Judiciary, to whom was referred Resolution No. 1, 1928, entitled, a Resolution declaring Resolution No. 27, 1927, rescinded, and all things done thereunder null and void, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

AUSTIN H. TODD,
WALTER R. DORSETT,
BOYNTON J. MOORE.

The Law and Judiciary Committee submitted the following majority report on Resolution 1, 1928:

Mr. Springsteen, as a member of the committee, submitted a minority report recommending that the resolution be not passed, which he later withdrew.

Mr. Negley made a motion that the majority committee report be accepted, which was seconded by Mr. Moore.

President Bartholomew ruled that Mr. Negley's motion was out of order, but later changed his ruling and ordered a roll call on Mr. Negley's motion. The Clerk

started to call the roll on Mr. Negley's motion, when Mr. Albertson refused to vote. The President advised Mr. Albertson that he was out of order and that the rules required him to vote unless excused by the Council. Mr. Albertson continued to refuse to vote, whereupon the President proceeded to put a motion by roll call to ascertain the attitude of the Council toward Mr. Albertson's refusal to vote. At this point Mr. Albertson arose to a point of order, questioning the right of the President to put a motion himself while in the chair.

After considerable parliamentary discussion, President Bartholomew reverted to his original ruling that Mr. Negley's motion was out of order, and in order to clarify the situation, Mr. Springsteen withdrew his minority report, which left only the majority report to be received by the Council. Mr. Negley questioned Mr. Springsteen's right to withdraw his minority report after it had been received and read by the Clerk, but this objection was overruled by the Chair. Mr. Negley then entered a motion which was seconded by Mr. Dorsett, that the Council refuse to allow the withdrawal of the minority report. This motion was ruled out of order by the Chair.

Mr. Dorsett called for Resolution 1, 1928, for second reading. It was read a second time.

Mr. Dorsett made a motion to suspend the rules for the passage of Resolution 1, 1928. The motion was seconded by Dr. Todd, and failed to pass by the following roll-call vote:

Ayes, 5, viz: Messrs. Dorsett, Moore, Negley, Todd and President Bartholomew.

Noes, 2, viz: Messrs. Albertson and Springsteen.

Mr. Moore made a motion that the Council sustain the Mayor's veto on General Ordinance 119, 1927. The motion was seconded by Mr. Albertson and passed by the following roll-call vote:

Ayes, 7, viz: Messrs. Albertson, Dorsett, Moore, Negley, Springsteen, Todd and President Bartholomew.

On motion of Mr. Moore, seconded by Mr. Dorsett, the Common Council adjourned at 9:27 p. m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the Common Council of the City of Indianapolis, Indiana, held on the 16th day of January, 1928, at 7:30 p. m.

In witness whereof, we have hereunto subscribed our signatures and caused the seal of the City of Indianapolis to be affixed.

Otis E. Bartholomew.

Attest:

President

William A. Boyce, Jr.

City Clerk

(SEAL)